

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JASON MARCELLE and CRYSTAL	:	CIVIL ACTION
LEGRAND, individually and as	:	
Administratrix of the Estate of	:	
DAVAIAY LEGRAND, and as parent	:	
and natural guardian of SHIANTI	:	NO. 07-CV-4376
LEGRAND and NIJAIRE LEGRAND,	:	
minors,	:	
Plaintiffs	:	
	:	
vs.	:	
	:	
CITY OF ALLENTOWN, et al.,	:	
Defendants	:	

ORDER

AND NOW, this 15th day of September, 2010, upon consideration of the defendants' motion to certify Order for interlocutory appeal (Document #48), and the plaintiffs' response thereto, it is hereby ORDERED that the motion is GRANTED.

IT IS FURTHER ORDERED that:

1. The Order entered on March 31, 2010 denying in part the City of Allentown's motion for summary judgment is hereby certified to provide the basis for an interlocutory appeal by the City of Allentown to the United States Court of Appeals for the Third Circuit pursuant to 28 U.S.C. § 1292(b) and the defendants are allowed ten (10) days from the date of entry of this Order to petition the Court of Appeals to permit an interlocutory appeal.

2. The following controlling question of law is certified for interlocutory appeal:

Whether the court properly applied the United States Supreme Court's decision in Bd. of County Comm'rs of Bryan County v. Brown, 520 U.S. 397, 404 (1997) in concluding that a reasonable jury could find from the record in this case that the City of Allentown's actions in hiring Officer Brett M. Guth, despite being aware of his previous driving record and then in retaining him despite the tailgating incident in 2006, constitutes deliberate indifference to the safety of the public, particularly pedestrian bystanders.

BY THE COURT:

/s/ Lawrence F. Stengel
LAWRENCE F. STENGEL, J.